

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Corpus Christi DIVISION

Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

MARVIN WADDLETON III #1355746
Plaintiff's name and ID Number

W. McConnell unit
Place of Confinement

CASE NO: _____
(Clerk will assign the number)

v.

MR. NORRIS JACKSON McConnell Unit
Defendant's name and address

United States Court
Southern District of Texas
FILED

AUG 09 2010

MR. A. AMBRIZ McConnell Unit
Defendant's name and address

David J. Bradley, Clerk of Court

Mr. D. KEMPT McConnell
Defendant's name and address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$350.00.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$350 filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked **"NOTICE TO THE COURT OF CHANGE OF ADDRESS"** and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

I. PREVIOUS LAWSUITS:

- A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? X YES NO
- B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: September 2000
 2. Parties to previous lawsuit:
 Plaintiff(s): MARVIN WADDLETON III
 Defendant(s): BLALOCK , J.B.SMITH Sheriff Dept.
 3. Court (If federal, name the district; if state, name the county) EASTERN, TYLER DIVISION
 4. Docket Number: 6:00 cv 298
 5. Name of judge to whom case was assigned: JUDITH GURTHRIE
 6. Disposition: (Was the case dismissed, appealed, still pending?)
Dismissed
 7. Approximate date of disposition: December 2000

II. PLACE OF PRESENT CONFINEMENT: W. MC CONNELL Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? X YES NO
Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: MARVIN WADDLETON III et,all

Mc Connell Unit 3001 S. Emily Dr. Beeville, Tex. 78102-8583

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Mr. Norris JACKSON Asst Warden

Mc Connell Unit 3001 S. Emily Dr. Beeville, Tex. 78102

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Ordered Major M. BARBER to visual cavity body search of the prisoner's.

Defendant #2: A. AMBRIZ-Major Stg. J. SOTO

Mc Connell Unit 3001 S. Emily Dr. Beeville, Tex. 78102-8583

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Ordered visual body cavity search upon leaving recreation yard.

Defendant #3: Mr. D. KEMPT Captain Lt. K. GARZA

Ordered visual body cavity search after Church services.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

3001 S. Emily Dr. Beeville, Tex. 78101-8583

Defendant #4: V.L. BRISHER Asst. ADMININSTRATOR Region B. Trevino - Region

HC02 Box 965 Beeville, Tex. 78102

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Failure to stop the unreasonable visual cavity searches on the Unit.

Defendant #5: Ms. Barbara TREVINO Asst Region Director IV

HC02 Box 965 Beeville Tex. 78102

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Failure to stop the unreasonable without penological searches.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intent to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

(1). My Constitutional rights of the U.S.C.Const of the 4,8,14, amendments were violated on the 13th of June 2008 by ordered visual cavity body search in front of 7,8, Chow hall which O.D.R. dining hall next to it. Asst. Warden N. JACKSON told MAJOR M. Barber to order the Sgt and C.O. to pull the Prisoner's out of the 8 chow hall and strip search them Cpt. E. Castro (F), Sgt Ortiz and other male and females and Sgt. RIDER obeyed, pulling 10 inmates out at a time. There were other females in close to area Sgt. S ZAMORA work the O.D.R. gate, where Commissary personal (F) were present MS. P. TREVINO and R. RAMIREZ and unknown workers in the O.D.R. Chow hall non emergcy and without probable cause.

(F) -female

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

I'm seeking an injunction to stop those wanton unreasonable without probable cause.
Shall ask for nominal damages of \$5,000.00 per incident and 450,000.00 punitive.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

None

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

#924976 #1355746

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____ YES x NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): _____

2. Case Number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? ____ YES x NO

- C. Has any court ever warned or notified you that sanctions could be imposed? ____ YES X NO
- D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning were imposed: _____

Executed on: Aug. 04, 2010
(Date)

Marvin Waddleton III
(Printed Name)

Marvin Waddleton III
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$350 filing fee and costs assess by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

Signed this 04 day of August, 2010.
(Day) (Month) (Year)

Marvin Waddleton III
(Printed Name)

Marvin Waddleton III
(Signature of Plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.

STATEMENT OF CLAIM:

(2). My Constitution rights of the 4,8,14, U.S.C.A. Const. amendment were again violated on the 15th of April 2009 when ordered to submit to a visual cavity body search in around 8 building desk and L Pod hall. Ordered and in the presence of Major A. AMBRIZ, with Sgt. J. SOTO without probable cause and a non-emergency when exit the recreation yard.

(3). My Constitution rights were violated again U.S.C.A. Const. 4,8,14, on the 26th day of April 2009 by ordered visual cavity body search at the 7 gym after Church services. Ordered by Sgt. M. Mc GOVERN on a non-emergency without probable cause.

(4). My Constitution rights of U.S.C.A. Const 4,8,14, amendment were again violated on the 29th of April 2009 upon going to the recreation yard. Ordered by and the presence of Cpt. D. KEMP and Lt. K. GARZA (F). On 8 building L pod hall with Sgt. T. Marcom and about 5 other females in close range around the desk. And a U.T.M.B employee Ms. K BAGNALL Mental health dept. Prisoner's - Inmates - Offenders were ordered to submit to a visual cavity body search, without probable cause and absent of any emergency.

VI. Relief

damages plus legal fees filing and Court cost.



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE FORM

Offender Name: Wadlington Marvin III TDCJ # 1355746
 Unit: McConnell Housing Assignment: 8-L-30B
 Unit where incident occurred: SAME

OFFICE USE ONLY

Grievance #: 2008167897
 UGI Recd Date: JUL 24 2008
 HQ Recd Date: JUL 29 2008
 Date Due: 8-28-08
 Grievance Code: 815
 Investigator ID #: I1398
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be specific). I am dissatisfied with the response at Step 1 because...

it didn't address the violation. To subject a prisoner to such extreme degrading visual cavity search was a invasion of one's privacy. The U.S. Const. 4th Amendment protect a prisoner from unreasonable, degrading, unnecessary search, without any suspicion of wrongdoing. The Due process provide protection for prisoners from a invasion of privacy without cause. To have one naked body view by member of the opposite sex, not in front of 8 Chow hall and by the O.D.R gate violate all principles and fundamental rights.

The visual cavity strip search was not only unnecessary, but also unprofessional, by the place in which it was done and the psychological suffering cause with the presence of females within close visual range. The area was secure, when the doors on 8 Chow hall was closed, preventing other prisoners from exiting the Chow Hall. After Lt Jacquelyn Jameson, Sgt Ortiz and others officers accessed the inmate outside, between 10 gate and B turn out. The prisoners that were eating inside 8 Chow hall had nothing to do with the incident.

Asst Warden N. Jackson orders to strip search the inmates who were inside the 8 Chow hall was a wanton, malicious act, totally without penological justification. Violation of both the 4th and 8th U.S. Const Amendments

Offender Signature: Mark Madellaton IIIDate: 7-24-08

Grievance Response:

Your grievance has been investigated. There is insufficient evidence to substantiate your claim that you are being punished by officers conducting strip searches on you in front of female officers. Strip searches are very often conducted to look for offenders and staff alike. They are, however, a vital part of institutional security. When possible, staff of the same gender should conduct the search; however, if circumstances dictate that staff of the opposite gender must conduct the search, such searches are authorized, only in extraordinary circumstances and approved by the Warden. You were appropriately advised in your Step 1. Without sufficient evidence, no further action is warranted. SR-D

Signature Authority: [Signature]

V. L. BRISHER, ASST ADMINISTRATOR

Date: AUG 11 2008Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 6. Inappropriate. *

CGO Staff Signature: _____

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

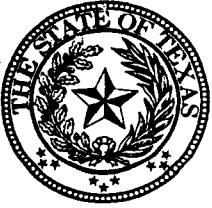
Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 2

OFFENDER GRIEVANCE FORM

Offender Name: Waddleton Marvin III TDCJ # 1355746
 Unit: McConnell Housing Assignment: 8-L-08 B
 Unit where incident occurred: same

P OFFICE USE ONLY

Grievance #: 2009135008
 UGI Recd Date: MAY 02 2009
 HQ Recd Date: JUN 02 2009
 Date Due: 7-02
 Grievance Code: 518
 Investigator ID #: 0205
 Extension Date: 8-4

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be specific). I am dissatisfied with the response at Step 1 because...

THERE WAS NOT SHOWN TO BE ANY SECURITY BREACH TO WARRANT THE NEED TO VIOLATE THE U.S. CONST 4 AMEND PROBABLE CAUSE. THERE HAD NOT BEEN ANY EMERGENCY ON THE RECREATION YARD THAT WOULD DEEM THE NECESSARY. A PRISONER body is private, not to be violated without REASONABLE PROBABLE CAUSE. FOR WHAT EVER POSSIBLE REASON TO TRAIN NEW OFFICERS IS NOT DEEM AS A SECURITY NEED.

BECAUSE UNDER U.S. CONST 14 AMENDMENT SOE PRISONERS ALSO HAVE EQUAL PROTECTION UNDER THE LAW. BEING THAT WE PRISONERS LIVE WITHIN A CONTROLLED ENVIRONMENT WITH NO OUTSIDE CONTACT ON A DAILY BASIS THE NEED TO STOP A PRISONER HAS TO MEET A GREAT NEED.

PRISONERS BEING INCARCERATED IN T.D.C.J. IS THE PUNISHMENT FOR THE CRIMINAL ACT FOR WHICH THEY HAVE BEEN CONVICTED. WHEN ADMINISTRATION TAKE UPON THEMSELVES TO INFLECT A WANTON MALICIOUS ACT TO A PRISONER, THIS VIOLATE U.S. CONST AMEND 8 OF CRUEL AND UNUSUAL PUNISHMENT.

OFFICERS ARE IN VIOLATION OF TEX CONST ACT 1 § 3, 9, AND 13 ALSO U.S. CONST 4, 8, AND 14 AMENDMENTS.

Offender Signature: Harri Waddell IIIDate: 5-28-09

Grievance Response:

Strp searches are an unpleasant task for staff and offenders alike, however they will continue to ensure a safe living and working environment. No action from this office will be taken.

Barbara Trevino, Region IV Assistant Director

Signature Authority: [Signature]Date: 6-22-09Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 6. Inappropriate. *

CGO Staff Signature: _____

I-128 Back (Revised 9-1-2001)

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE FORM

Offender Name: Wadleton Marvin III TDCJ # 1358746
 Unit: McConnell Housing Assignment: 8-2086
 Unit where incident occurred: SAME

OFFICE USE ONLY	
Grievance #:	<u>2009145889</u>
UGI Recd Date:	<u>JUN 08 2009</u>
HQ Recd Date:	<u>JUN 15 2009</u>
Date Due:	<u>7-13</u>
Grievance Code:	<u>518</u>
Investigator ID #:	<u>10205</u>
Extension Date:	<u>8-17</u>

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be specific). I am dissatisfied with the response at Step 1 because...

T.D.C.J. OFFICERS CONTINUE TO VIOLATE PRISONERS right to privacy of their body. IN THE RESPONSE R. Cites - Warden claim that strip search - visual cavity searches can and shall be conducted by all correctional staff, both male and female.

HOWEVER, THE A.D. 3-22 IN VISUAL / PAT SEARCHES clearly states female offenders shall be pat searched by female staff. IN According to Equal Protection male offenders have the same right not to be pat searched by female staff. Thus for male offenders to be strip searched and visual cavity search by female staff is totally unreasonable.

For a strip-search to meet a TEX. art 1 § 9 reasonable requirement it must be penological justified, not to violate clearly established constitutional rights and statutory laws. Cpt D. Kempt stated that there was no reason, nor was a reason needed to strip search prisoners. Being subjected to staff perverted sexual entertainment at the expense of prisoners violate both search and seizure, cruel and unusual punishment.

Equal protection of the law provide Equal opportunity for jobs which allow both male and female to work at opposite gender Unit, but during normal operation not allowed.

to perform certain duties. To invade upon my privacy of my body genital with a penological reason violates all principles of moral, modesty, undignified, humiliating, unpleasant, embarrassing and repulsive.

Violation of Tex. Const Act 1 sec 3, 9, 13 and U.S Const 4, 8, 14 amendments

Offender Signature: Mauri Weddleton JB

Date: 6-08-09

Grievance Response:

Strip searches are an unpleasant task for staff and offenders alike. They are necessary and will continue to ensure a safe and free living and working environment. Unit supervisors state that the searches were conducted according to policy. No action will be taken.

Barbara Trevino, Region IV Assistant Director

Signature Authority: [Signature]

Date: 7-14-09

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate. *

CGO Staff Signature: _____

OFFICE USE ONLY	
Initial Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	
2nd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	
3rd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	

Marvin Waddleton III #1355746
McConnell Unit
3001 S. Emily Dr
Beeville, Tex. 78102-8583

United States Courts
Southern District of Texas
FILED
AUG 09 2010
David J. Bradley, Clerk of Court

U.S. District Court
c/o Clerk
1133 N. Shoreline Blvd.
Corpus Christi, Tex. 78401-200

San Antonio, TX 78201
FRI 05 AUG 2010 PM

